IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1176 OF 1997.

M/s.Archies Garage Pvt.Ltd. ... Petitioner.

V/s.

Shri Shafique Hussain Attar
and another. ... Respondents.

None for the parties.

CORAM: V.C.DAGA, J.

DATED: 22nd March 2006.

P.C.:

. When this petition was called out for final hearing, parties were absent. Their advocates were also absent.

2. Having gone through the petition, it appears to be against the order dated 31st August, 1996 passed in Reference (IDA) No.180 of 1993 by the Presiding Officer, First Labour Court, Pune, whereby the petitioner was directed to reinstate the respondent- workman on his original post with continuity of service giving full back wages for the intervening idle period.

The Facts :
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3. The facts giving rise to the present petition, in nutshell, are as under:

4. The respondent herein claims to be a person working as Mechanic with the petitioner-employer since 1986, initially, appointed by M/s.Archie's Garage having its place of business at 674, Shankarshet Road, Pune- 42.

5. It appears that services of the workman were orally terminated with effect from 25th November, 1992 without any notice or payment of retrenchment compensation or for that purpose without holding any departmental enquiry for any misconduct.

6. The respondent- workman appears to have issued demand notice dated 27th November, 1992 By R.P.A.D. claiming reinstatement with full back wages. This demand notice was addressed to the Manager, Archie's Garage Pvt.Ltd.

7. The petitioner- employer vide its letter dated 30th November, 1992 replied to the said notice; stating that the services of the respondent were never terminated and called upon him to resume his duty forthwith. The said reply-cum-letter was sent on the letter-head of M/s.Archie's Garage signed by one Mr.Patric

Mandody, said to be the Director of Archie's Garage Private Ltd., Pune looking after the said company as well as M/s.Archie's Garage, Pune. The respondent- workman raised dispute since the petitioner- Company refused to reinstate him, which, ultimately, resulted in making reference to the Labour Court, Pune. The First Labour Court, after recording evidence passed an award which is a subject matter of challenge in this petition filed under Articles 226 and 227 of the Constitution of India.

Consideration :
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8. The contention of the petitioner appears to be that the respondent- workman was never employed by it as such there was no employer-employee relationship between the parties.

9. The contention sought to be raised in the petition is devoid of any substance. The respondent- workman, if at all, was not in employment with the petitioner- Company, the petitioner ought to have denied the demand set up in the notice issued by the respondent saying that he was never employed by it. Instead of taking

such a bold stand, the petitioner has admitted that the services of the respondent were never terminated by it. The petitioner could not have called upon the respondent- workman to resume his duty with M/s.Archie's Garage by writing letter on the letter-head of the said garage when demand was against Company.

10. It appears to be a deliberate act on the part of the petitioner- employer to deny relationship between them vis-a-vis M/s.Archie's Garage Private Ltd, the petitioner herein. It appears to be the contention of the respondent that, if the letter-head of M/s.Archie's Garage and M/s.Archie's Garage Private Ltd. are perused, it would be clear that the address of business premises and telephone numbers of both were same. It appears that M/s.Archie's Garage and M/s.Archie's Garage Private Ltd. are one and the same entity.

11. The petitioner- employer was also duly served in the conciliation proceedings. It was expected on the part of the petitioner- employer to appear before the Conciliation Officer and raise contention as sought to be raised in the

petition. No such attempt was made at the earliest opportunity. This is another factor which goes to support the view taken by the Court Below. In the petition, the petitioner- employer has also raised contradictory contentions. On one hand employer-employee relationship is denied. At the same time, contention is sought to be raised that the services of respondent No.1 were not terminated but he chose to remain absent from the job.

12. Taking overall view of the matter, no case is made out to interfere with the impugned order. In the result, petition is dismissed. Rule stands discharged with no order as to costs.

(V.C.DAGA, J.)